



8011-01

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82372; File No. SR-NYSEArca-2017-140]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change to List and Trade Shares of the Perth Mint Physical Gold ETF Trust under NYSE Arca Rule 8.201-E

December 21, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on December 11, 2017, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the Perth Mint Physical Gold ETF Trust under NYSE Arca Rule 8.201-E. The proposed change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares ("Shares") of the Perth Mint Physical Gold ETF Trust ("Trust"), under NYSE Arca Rule 8.201-E.⁴ Under NYSE Arca Rule 8.201-E, the Exchange may propose to list and/or trade pursuant to unlisted trading privileges ("UTP") "Commodity-Based Trust Shares".⁵

The Trust will not be registered as an investment company under the Investment Company Act of 1940, as amended,⁶ and is not required to register under such act. The Trust is not a commodity pool for purposes of the Commodity Exchange Act, as amended.⁷

The sponsors of the Trust will be Gold Corporation (the "Custodial Sponsor") and

⁴ On August 30, 2017, the Trust submitted to the Commission its draft registration statement on Form S-1 (the "Registration Statement") under the Securities Act of 1933 (15 U.S.C. 77a) ("Securities Act"). The Jumpstart Our Business Startups Act, enacted on April 5, 2012, added Section 6(e) to the Securities Act. Section 6(e) of the Securities Act provides that an "emerging growth company" may confidentially submit to the Commission a draft registration statement for confidential, non-public review by the Commission staff prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in Securities Act Rule 433(h)(4). An emerging growth company is defined in Section 2(a)(19) of the Securities Act as an issuer with less than \$1,000,000,000 total annual gross revenues during its most recently completed fiscal year. The Trust meets the definition of an emerging growth company and consequently has submitted its Form S-1 Registration Statement on a confidential basis with the Commission.

⁵ Commodity-Based Trust Shares are securities issued by a trust that represents investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

⁶ 15 U.S.C. 80a-1.

⁷ 17 U.S.C. 1.

Exchange Traded Concepts, LLC (“ETC” or the “Administrative Sponsor” and, together with the Custodial Sponsor, the “Sponsors”). Gold Corporation, doing business as the Perth Mint, is a Western Australian Government owned statutory body corporate established by the *Gold Corporation Act 1987* (Western Australia). ETC is an Oklahoma limited liability company majority owned by Cottonwood ETF Holdings LLC. ETC is a registered investment adviser and provides investment advisory services to domestic and international equity and fixed income ETFs. The Trustee will be the Bank of New York Mellon (the “Trustee”). Gold Corporation will also serve as custodian of the Trust’s gold bullion (in such capacity, the “Custodian”).⁸

The Commission has previously approved listing on the Exchange under NYSE Arca Rule 5.2-E(j)(5) and 8.201-E of other precious metals and gold-based commodity trusts, including GraniteShares Gold Trust;⁹ VanEck Merk Gold Trust (formerly Merk Gold Trust);¹⁰

⁸ As Custodian of the Trust’s gold bullion, Gold Corporation will be responsible for the safekeeping of the Trust’s gold and supplying inventory information to the Trustee and the Sponsors. The Custodian will also be responsible for facilitating the transfer of gold in and out of the Trust and facilitating the shipment of Physical Gold to Delivery Applicants. The Custodian will confirm the deposit of gold into the Trust Unallocated Metal Account (as defined herein) received from an Authorized Participant in exchange for Baskets. The Custodian will promptly convert the deposit to allocated Gold held in the Trust Allocated Metal Account. The Custodian must allocate ownership of Physical Gold to the Trust such that no amount of Gold remains standing for the benefit of the Trust in the Trust Unallocated Metal Account at the Custodian’s Close of Business on each Business Day. In the event that the Custodian is unable to fully effect such allocation by such time, it will use reasonable efforts to cause such allocation as soon as possible. The Custodian will safely store Physical Gold in its own vaulting facilities and any other vaulting facility as approved by the Custodian and utilize the services of its appointed secure transportation provider at the risk of the Custodian. The Trust’s gold holdings are subject to periodic audits and, under the Custody Agreement, the Custodian has agreed to permit auditors to access all premises during normal business hours to examine the gold held for the Trust and such records as they reasonably require.

⁹ Securities Exchange Act Release No. 81077 (July 5, 2017) 82 FR 32024 (July 11, 2017) (SR-NYSEArca-2017- 55)

¹⁰ Securities Exchange Act Release No. 71378 (January 23, 2014), 79 FR 4786 (January 29, 2014) (SR-NYSEArca-2013-137).

ETFS Gold Trust,¹¹ ETFS Platinum Trust¹² and ETFS Palladium Trust (collectively, the “ETFS Trusts”);¹³ APMEX Physical-1 oz. Gold Redeemable Trust;¹⁴ Sprott Gold Trust;¹⁵ SPDR Gold Trust (formerly, streetTRACKS Gold Trust); iShares Silver Trust;¹⁶ iShares COMEX Gold Trust,¹⁷ Long Dollar Gold Trust,¹⁸ and Euro Gold Trust, Pound Gold Trust and Yen Gold Trust.¹⁹ Prior to their listing on the Exchange, the Commission approved listing of the streetTRACKS Gold Trust on the New York Stock Exchange (“NYSE”)²⁰ and listing of iShares

¹¹ Securities Exchange Act Release No. 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR-NYSEArca-2009-40).

¹² Securities Exchange Act Release No. 61219 (December 22, 2009), 74 FR 68886 (December 29, 2009) (SR-NYSEArca-2009-95).

¹³ Securities Exchange Act Release No. 61220 (December 22, 2009), 74 FR 68895 (December 29, 2009) (SR-NYSEArca-2009-94).

¹⁴ Securities Exchange Act Release No. 66930 (May 7, 2012), 77 FR 27817 (May 11, 2012) (SR-NYSEArca-2012-18).

¹⁵ Securities Exchange Act Release No. 61496 (February 4, 2010), 75 FR 6758 (February 10, 2010) (SR-NYSEArca-2009-113).

¹⁶ See Securities Exchange Act Release No. 58956 (November 14, 2008), 73 FR 71074 (November 24, 2008) (SR-NYSEArca-2008-124) (approving listing on the Exchange of the iShares Silver Trust)).

¹⁷ See Securities Exchange Act Release No. 56224 (August 8, 2007), 72 FR 45850 (August 15, 2007) (SR-NYSEArca-2007-76) (approving listing on the Exchange of the street TRACKS Gold Trust); Securities Exchange Act Release No. 56041 (July 11, 2007), 72 FR 39114 (July 17, 2007) (SR-NYSEArca-2007-43) (order approving listing on the Exchange of iShares COMEX Gold Trust).

¹⁸ See Securities Exchange Act Release No. 79518 (December 9, 2016), 81 FR 90876 (December 15, 2016) (SR-NYSEArca-2016-84) (order approving listing and trading of shares of the Long Dollar Gold Trust).

¹⁹ See Securities Exchange Act Release No. 80840 (June 1, 2017), 82 FR 26534 (June 7, 2016) (SR-NYSEArca-2017-33).

²⁰ See Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR-NYSE-2004-22) (order approving listing of street TRACKS Gold Trust on NYSE).

COMEX Gold Trust and iShares Silver Trust on the American Stock Exchange LLC.²¹ In addition, the Commission has approved trading of the streetTRACKS Gold Trust and iShares Silver Trust on the Exchange pursuant to UTP.²²

The Exchange represents that the Shares satisfy the requirements of NYSE Arca Rule 8.201-E and thereby qualify for listing on the Exchange.²³

The Trust's Objectives and Structure²⁴

The Trust's primary objective will be to provide investors with an opportunity to invest in gold through the Shares, have the gold securely stored by Gold Corporation and, if requested by an investor, deliver Physical Gold²⁵ to such investor in exchange for its Shares.²⁶

²¹ See Securities Exchange Act Release Nos. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (SR-Amex-2004-38) (order approving listing of iShares COMEX Gold Trust on the American Stock Exchange LLC); 53521 (March 20, 2006), 71 FR 14967 (March 24, 2006) (SR-Amex-2005-72) (approving listing on the American Stock Exchange LLC of the iShares Silver Trust).

²² See Securities Exchange Act Release Nos. 53520 (March 20, 2006), 71 FR 14977 (March 24, 2006) (SR-PCX-2005-117) (approving trading on the Exchange pursuant to UTP of the iShares Silver Trust); 51245 (February 23, 2005), 70 FR 10731 (March 4, 2005) (SR-PCX-2004-117) (approving trading on the Exchange of the streetTRACKS Gold Trust pursuant to UTP).

²³ With respect to the application of Rule 10A-3 (17 CFR 240.10A-3) under the Act, the Trust relies on the exemption contained in Rule 10A-3(c)(7).

²⁴ The description of the Trust's Objectives and Structure, the Operation of the Gold Market, and the London Bullion Market Association, are based, in part, on the Registration Statement. See Ftnt. 4 supra.

²⁵ Physical Gold is defined as London Bars and all gold products without numismatic value and having a gold purity of at least 99.5% (including coins, cast bars and minted bars).

An additional objective of the Trust will be for the Shares to reflect the performance of the price of gold less the expenses of the Trust's operations. The Trust provides investors with a convenient and cost efficient way to buy and hold gold through an exchange traded security with the option to take delivery of the Physical Gold. Although owning Shares will not be the exact equivalent of an investment in gold, such Shares provide investors with an alternative that allows a level of participation in the gold market through the securities market.

To meet its investment objectives and provide investors with an opportunity to invest in gold through the Shares and to be able to take delivery of Physical Gold in exchange for their Shares, the Sponsors have structured the Trust as follows:

Maintaining Allocated Gold. The Trust will hold its Physical Gold in allocated form in the Trust Allocated Metal Account with the Custodian. The Trust Allocated Metal Account will be used to hold Physical Gold deposited with the Trust. The Physical Gold is held in a segregated fashion in the name of the Trust, not commingled with other depositor funds or assets. The Trust will have full title to the gold with the Custodian holding it on the Trust's behalf. Each investor owns a pro-rata share of the Trust, and as such holds pro-rata ownership of the Trust assets, corresponding to the number of Shares held. Credits or debits to the holding will be effected by physical movements of gold to or from the Trust's physical holding. The Trust's gold holdings are subject to periodic audits.

²⁶ According to the Registration Statement, the Trust does not trade in gold futures contracts on COMEX or on any other futures exchange. Because the Trust does not trade in gold futures contracts on any futures exchange, the Trust is not regulated by the CFTC under the Commodity Exchange Act as a "commodity pool," and is not operated by a CFTC-regulated commodity pool operator. Investors in the Trust do not receive the regulatory protections afforded to investors in regulated commodity pools, nor may COMEX or any futures exchange enforce its rules with respect to the Trust's activities. In addition, investors in the Trust do not benefit from the protections afforded to investors in gold futures contracts on regulated futures exchanges.

Permitting Investors to Take Delivery of Physical Gold. Delivery Applicants²⁷ may surrender Shares to the Trust in exchange for the supply of Physical Gold subject to any minimum dollar amount specified by the Custodial Sponsor from time to time on the Trust's website. When surrendering Shares to facilitate the supply of Physical Gold, the Custodial Sponsor will require the submission of Shares that correspond in net assets to the number of Fine Ounces contained in the Physical Gold requested plus any applicable product premiums, and delivery fees (together "processing fees"). The number of Shares required for submission will be provided by the Custodial Sponsor, inclusive of processing fees, in a pre-populated Delivery Application.²⁸

Minimizing Cash Holdings. The Trust is committed to minimizing the use of cash, keeping essentially all assets of the Trust in gold. The Trust will not normally hold cash or any other assets besides gold.

Government Guarantee. The Government Guarantee,²⁹ applies to all gold held by the Custodian, whether in the Trust Allocated Metal Account,³⁰ the Trust Unallocated Metal Account³¹ or in a Customer Account, for the benefit of the Trust or a Delivery Applicant.

²⁷ Delivery Applicant means a beneficial owner who is not an Authorized Participant and wishes to surrender part or all of the Shares he or she holds for the purpose of taking delivery of Physical Gold.

²⁸ Delivery Application means a document in a form satisfactory to the Custodian and as set forth herein that expresses a Delivery Applicant's intention to surrender Shares on a Share Submission Day in exchange for an amount of Gold on such Share Submission Day.

²⁹ As noted supra, Gold Corporation, doing business as the Perth Mint, is a Western Australian Government owned statutory body corporate established by the *Gold Corporation Act 1987* (Western Australia) (the "WA Act"). The Government Guarantee provided by the State of Western Australia pursuant to Section 22 of the WA Act provides (amongst other things) that the payment of the cash equivalent of gold due, payable and deliverable by the Custodian under the WA Act is guaranteed by the Treasurer of Western Australia, in the name and on behalf of the Crown in the right of the State of Western Australia.

Operation of the Gold Market

The global trade in gold consists of over-the-counter (“OTC”) transactions in spot, forwards, and options and other derivatives, together with exchange-traded futures and options.

The OTC market trades on a continuous basis and accounts for most global gold trading. Market makers and participants in the OTC market trade with each other and their clients on a principal-to-principal basis.

The main centers of the OTC market are London, New York and Zurich. Most OTC market trades are cleared through London. The LBMA plays an important role in setting OTC gold trading industry standards.

Futures Exchanges

Although the Trust will not invest in gold futures, information about the gold futures market is relevant as such markets contribute to, and provide evidence of, the liquidity of the overall market for gold.

The most significant gold futures exchange in the U.S. is COMEX, operated by Commodities Exchange, Inc., a subsidiary of New York Mercantile Exchange, Inc., and a subsidiary of the Chicago Mercantile Exchange Group (the “CME Group”). Other commodity exchanges include the Tokyo Commodity Exchange (“TOCOM”), the Multi Commodity

³⁰ Trust Allocated Metal Account means the account maintained for the Trust by the Custodian on an allocated basis pursuant to the Trust Allocated Account Agreement for the purpose of holding Physical Gold on behalf of the Trust.

³¹ Trust Unallocated Metal Account means the account maintained for the Trust by the Custodian on an unallocated basis pursuant to the Trust Unallocated Metal Account Agreement.

Exchange Of India (“MCX”), the Shanghai Futures Exchange, ICE Futures US (the “ICE”), and the Dubai Gold & Commodities Exchange.³²

The London Bullion Market Association (LBMA)

The LBMA is a trade association that, among other duties, maintains and publishes “Good Delivery” lists that establish a set of criteria that a refiner and its gold must satisfy before being accepted for trading. Although the market for Physical Gold is distributed globally, most OTC market trades are cleared through London. The LBMA coordinates the market for gold and acts as the principal point of contact between the market and its regulators.

A primary function of the LBMA is its involvement in the promotion of refining standards by maintenance of the “London Good Delivery Lists,” which are the lists of LBMA accredited melters and assayers of gold as well as the specifications to which a bar/ingot must adhere. The LBMA also coordinates market clearing and vaulting, and promotes good trading practices.

“Good Delivery” is a list of specifications a bar or ingot must meet to trade on the London gold markets. The standards for gold bars meeting the “London Good Delivery Lists” are published in LBMA’s “The Good Delivery Rules for Gold and Silver Bars”.

Gold is usually traded on the London market on a loco London basis. This means the gold is physically held in vaults in London or is transferred into accounts established in London. Payment upon settlement and delivery of a loco London spot trade is usually in US dollars, two business days after the trade date. Delivery of the gold is either by physical delivery or through the LBMA clearing system to an unallocated account.

³² The CME Group and ICE Futures US are members of the Intermarket Surveillance Group (“ISG”).

Creation and Redemption of Shares by Authorized Participants

The Trust will issue and redeem Baskets equal to a block of 100,000 Shares. The Trust issues and redeems Baskets only to Authorized Participants. The creation and redemption of Baskets will only be made in exchange for the delivery to the Trust or the distribution by the Trust of the amount of gold represented by the Baskets being created or redeemed, the amount of which will be based on the combined Fine Ounces represented by the number of Shares included in the Baskets being created or redeemed determined on the day the order to create or redeem Baskets is properly received.

Orders to create and redeem Baskets may be placed only by Authorized Participants. An Authorized Participant must: (1) be a registered broker-dealer or other securities market participant, such as a bank or other financial institution, which, but for an exclusion from registration, would be required to register as a broker-dealer to engage in securities transactions, (2) be a participant in DTC, and (3) must have an agreement with the Custodian establishing an account or have an existing account meeting the standards described herein.

Gold is delivered to the Trust and distributed by the Trust through credits and debits between Authorized Participants' accounts, the Trust Unallocated Metal Account and the Trust Allocated Metal Account. When the Trustee requests creation of a basket at an Authorized Participant's request, the Authorized Participant will then transfer gold to the Trust Unallocated Metal Account. Once that gold is received in the Trust Unallocated Metal Account, the Custodian will then allocate the gold to the Trust Allocated Metal Account where it will be stored for safekeeping.

All gold represented by a credit to any Authorized Participant's unallocated account represents a right to receive Fine Ounces of gold. London Bars must further conform to London Good Delivery Standards.

Creation Procedures - Authorized Participants

On any business day, an Authorized Participant may place an order with the Trustee to create one or more Baskets. For purposes of processing both purchase and redemption orders, a "business day" means any day other than a day: (1) when the NYSE Arca is closed for regular trading; or (2) if the order or other transaction requires the receipt or delivery, or the confirmation of receipt or delivery, of gold in the United Kingdom, Western Australia or in some other jurisdiction on a particular day, (A) when banks are authorized to close in the United Kingdom, Western Australia or in such other jurisdiction or when the London gold market is closed or (B) when banks in the United Kingdom, Western Australia or in such other jurisdiction are, or the London gold market is, not open for a full business day and the order or other transaction requires the execution or completion of procedures which cannot be executed or completed by the close of the business day. Purchase orders must be placed prior to the Order Cutoff Time on any business day.³³

Determination of Required Deposits

The Trustee shall determine the Basket Gold Amount for each Business Day, and each such determination thereof and the Trustee's resolution of questions concerning the composition of the Basket Gold Amount shall be final and binding on all persons interested in the Trust. The

³³ "Order Cutoff Time" is defined, with respect to any business day, as (i) 4:00 p.m. Eastern Time on such business day or (ii) another time agreed to by the Sponsors and the Trustee as to which the Administrative Sponsor has notified registered owners of Shares and all existing Authorized Participants.

initial Basket Gold Amount is 1,000 Fine Ounces of gold. After the initial deposit of gold into the Trust, the Basket Gold Amount for each Business Day shall be an amount of gold equal to:

$$\frac{(a) \text{ minus } (b)}{(c) \text{ divided by } (d)}$$

1. Where:

- (a) = the total number of Fine Ounces of gold held in the Trust as of the opening of business on such Business Day.
- (b) = the number of Fine Ounces of gold equal in value to the Trust's unpaid expense accrual as of the opening of business on such Business Day
- (c) = the total number of Shares outstanding as of the opening of business on such Business Day
- (d) = 1,000,000 (or other number of Shares in a Basket for such Business Day).

Delivery of Required Deposits

An Authorized Participant who places a purchase order is responsible for crediting the Trust Unallocated Metal Account with the required gold deposit amount by 9:00 AM London time on the third business day following the purchase order date. No Shares will be issued unless and until the Custodian has informed the Trustee that it has credited to the Trust Allocated Metal Account at the Custodian the corresponding amount of gold. Upon transfer of the gold deposit amount to the Trust Allocated Metal Account, the Trustee will direct DTC to credit the number of Baskets ordered to the Authorized Participant's DTC account.

Redemption Procedures - Authorized Participants

The procedures by which an Authorized Participant can redeem one or more Baskets will mirror the procedures for the creation of Baskets. On any business day, an Authorized

Participant may place an order with the Trustee to redeem one or more Baskets. Redemption orders must be placed prior to the Order Cutoff Time on each business day the NYSE Arca is open for regular trading (normally 9:30 a.m. Eastern Time). A redemption order so received is effective on the date it is received in satisfactory form by the Trustee. The redemption procedures allow only Authorized Participants to redeem Baskets. An investor may not redeem Baskets other than through an Authorized Participant.

By placing a redemption order, an Authorized Participant agrees to deliver the Baskets to be redeemed through DTC's book-entry system to the Trust no later than the third business day following the effective date of the redemption order.

The redemption distribution from the Trust will consist of a credit to the redeeming Authorized Participant's account representing the amount of the gold held by the Trust evidenced by the Shares being redeemed as of the date of the redemption order.

Delivery of redemption distribution

The redemption distribution due from the Trust is delivered to the Authorized Participant on the next following business day after the Trustee's DTC account has been credited with the Baskets to be redeemed.

The Custodian will arrange for the redemption amount in gold to be transferred from the Trust Allocated Metal Account to the Trust Unallocated Metal Account, and thereafter, as necessary, to the redeeming Authorized Participant's account.

Taking Delivery of Physical Gold – Delivery Applicants

In exchange for its Shares, a Delivery Applicant³⁴ will be entitled to receive an amount of Physical Gold in return for such Shares which the Delivery Applicant's broker-dealer submits his or her Shares to the Trust in exchange for Physical Gold (the "Share Submission Day"). The number of Shares to be surrendered by a Delivery Applicant and the corresponding amount of Gold received for such Shares shall be specified by the Custodial Sponsor from time to time and notified by the Custodial Sponsor to the Delivery Applicant in a Delivery Application.

Delivery Application

Investors interested in taking delivery of Physical Gold in exchange for their Shares in the Trust must duly sign and submit the Delivery Application to the Administrative Sponsor within three Business Days of receipt of the Delivery ID (the Quotation Window). The submission of a Delivery Application expresses the Delivery Applicant's intention to surrender Shares on the Share Submission Day. The Custodian may reject any Delivery Application.

A Delivery Application will be available on the Trust's website.

Valuation of Gold and Computation of NAV

On each business day that NYSE Arca is open for regular trading, as promptly as practicable after 4:00 PM, Eastern Time, the Trustee will value the gold held by the Trust and will determine the Net Asset Value of the Trust, as described below.

The NAV of the Trust is the aggregate value of gold and other assets, if any, of the Trust (other than any amounts credited to the Trust's reserve account, if any) and cash, if any, less

³⁴ Delivery Applicant means a beneficial owner who is not an Authorized Participant and wishes to surrender part or all of the Shares he or she holds for the purpose of taking delivery of Physical Gold.

liabilities of the Trust, which include estimated accrued but unpaid fees, expenses and other liabilities.

All gold is valued based on its Fine Ounce content, calculated by multiplying the weight of gold by its purity; the same methodology is applied independent of the type of gold held by the Trust. The Trustee values the gold held by the Trust based on the afternoon LBMA Gold Price, or the morning LBMA Gold Price, if such day's afternoon LBMA Gold Price is not available. If no LBMA Gold Price is available for the day, the Trustee will value the Trust's gold based on the most recently announced afternoon LBMA Gold Price or morning LBMA Gold Price. If the Custodial Sponsor determines that such price is inappropriate to use, it shall identify an alternate basis for evaluation to be employed by the Trustee. The Custodial Sponsor may instruct the Trustee to use a different publicly available price which the Custodial Sponsor determines to fairly represent the commercial value of the Trust's gold. Once the value of gold has been determined, the Trustee will subtract all estimated accrued but unpaid fees, expenses and other liabilities of the Trust from the total value of gold and any other assets of the Trust (other than any amounts credited to the Trust's reserve account), including cash, if any. The resulting figure is the NAV of the Trust. The Trustee will also determine the NAV per share by dividing the NAV of the Trust by the number of the Shares outstanding as of the close of trading on the NYSE Arca (which includes the net number of any Shares deemed created or redeemed on such evaluation day).³⁵

³⁵ The exchange of Shares to facilitate the delivery of Physical Gold is subject to applicable product premiums and the delivery fees associated with the transport of Physical Gold to Delivery Applicants.

Secondary Market Trading

The Shares may trade in the secondary market on the NYSE Arca at prices that are lower or higher relative to their NAV per share. The amount of the discount or premium in the trading price relative to the NAV per share may be influenced by non-concurrent trading hours between the NYSE Arca and the COMEX, London and Zurich. While the Shares will trade on the NYSE Arca until 4:00 PM Eastern Time, liquidity in the global gold market may be reduced after the close of the major world gold markets, including London, Zurich and COMEX, usually at 1:30 PM Eastern Time. As a result, during this time, trading spreads and the resulting premium or discount on the Shares may widen.

Availability of Information Regarding Gold

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity such as gold over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, there is a considerable amount of information about gold and gold markets available on public websites and through professional and subscription services.

Investors may obtain gold pricing information on a 24-hour basis based on the spot price for an ounce of gold from various financial information service providers, such as Reuters and Bloomberg.

Reuters and Bloomberg, for example, provide at no charge on their websites delayed information regarding the spot price of Gold and last sale prices of Gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on Gold prices directly

from market participants. Complete real-time data for Gold futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. There are a variety of other public websites providing information on gold, ranging from those specializing in precious metals to sites maintained by major newspapers. In addition, the LBMA Gold Price is publicly available at no charge at www.lbma.org.uk.

Investors may obtain gold pricing information based on the spot price for a Fine Ounce from various financial information service providers. Current spot prices also are generally available with bid/ask spreads from gold bullion dealers. In addition, the Trust's website will provide pricing information for gold spot prices and the Shares. Market prices for the Shares will be available from a variety of sources including brokerage firms, information websites and other information service providers. The NAV of the Trust will be published by the Sponsor on each day that NYSE Arca is open for regular trading and will be posted on the Trust's website.

Availability of Information

The intraday indicative value ("IIV") per Share for the Shares will be disseminated by one or more major market data vendors. The IIV will be calculated based on the amount of gold held by the Trust and a price of gold derived from updated bids and offers indicative of the spot price of gold.³⁶

The website for the Trust will contain the following information, on a per Share basis, for the Trust: (a) the mid-point of the bid-ask price³⁷ at the close of trading ("Bid/Ask Price"), and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price

³⁶ The IIV on a per Share basis disseminated during the Core Trading Session should not be viewed as a real-time update of the NAV, which is calculated once a day.

³⁷ The bid-ask price of the Shares will be determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The website for the Trust will also provide the Trust's prospectus. Finally, the Trust's website will provide the last sale price of the Shares as traded in the U.S. market. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Criteria for Initial and Continued Listing

The Trust will be subject to the criteria in NYSE Arca Rule 8.201-E(e) for initial and continued listing of the Shares.

A minimum 100,000 Shares will be required to be outstanding at the start of trading. The Exchange believes that the anticipated minimum number of Shares outstanding at the start of trading is sufficient to provide adequate market liquidity.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Trust subject to the Exchange's existing rules governing the trading of equity securities. Trading in the Shares on the Exchange will occur in accordance with NYSE Arca Rule 7.34-E(a). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6-E, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

Further, NYSE Arca Rule 8.201-E sets forth certain restrictions on ETP Holders acting as

registered Market Makers in the Shares to facilitate surveillance. Under NYSE Arca Rule 8.201-E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the underlying gold, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 6.3-E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. A subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which conditions in the underlying gold market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary

market volatility pursuant to the Exchange's "circuit breaker" rule.³⁸ The Exchange will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily. The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV, as described above. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.³⁹ The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of

³⁸ See NYSE Arca Rule 7.12-E.

³⁹ FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.⁴⁰

Also, pursuant to NYSE Arca Rule 8.201-E(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying gold, gold futures contracts, options on gold futures, or any other gold derivative, through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Trust on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5(m).

⁴⁰ For a list of the current members of ISG, see www.isgportal.org.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2-E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of gold trading during the Core and Late Trading Sessions after the close of the major world gold markets; and (6) trading information. For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Trust. The Exchange notes that investors purchasing Shares directly from the Trust (by delivery of the Creation Basket Deposit) will receive a prospectus. ETP Holders purchasing Shares from the Trust for resale to investors will deliver a prospectus to such investors.

In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses as will be described in the Registration Statement. The Information Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical gold, that the Commission has no jurisdiction over the trading of gold as a physical commodity, and that the CFTC has regulatory jurisdiction over the trading of gold futures contracts and options on gold futures contracts.

The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)⁴¹ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201-E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of gold price and gold market information available on public websites and through professional and subscription services. Investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Investors may obtain gold pricing information based on the spot price for an ounce of gold from

⁴¹ 15 U.S.C. 78f(b)(5).

various financial information service providers. Current spot prices also are generally available with bid/ask spreads from gold bullion dealers. In addition, the Trust's website will provide pricing information for gold spot prices and the Shares. Market prices for the Shares will be available from a variety of sources including brokerage firms, information websites and other information service providers. The NAV of the Trust will be published by the Sponsor on each day that NYSE Arca is open for regular trading and will be posted on the Trust's website. The IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. In addition, the LBMA Gold Price is publicly available at no charge at www.lbma.org.uk. The Trust's website will also provide the Trust's prospectus, as well as the two most recent reports to stockholders. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding gold pricing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change will enhance competition by accommodating Exchange trading of an additional exchange-traded product relating to physical gold.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2017-140 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2017-140. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2017-140, and should be submitted on or before [INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴²

⁴² 17 CFR 200.30-3(a)(12).

Eduardo A. Aleman,
Assistant Secretary.

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